CANADA

# NATIONAL ENERGY BOARD

# REASONS FOR DECISION

In the Matter of a Submission under the Petroleum Administration Act

of

**Ultramar Canada Inc.**

**April 1980**

National Energy Board

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Ce rapport est publié séparément dans les deux langues officielles.

NATIONAL ENERGY BOARD

IN THE MATTER OF a submission by Ultramar Canada Inc., concerning exemption from export charges imposed under Section 7 of the Petroleum Administration Act, S.C. 1974-75-76, C.47 for eastern Canadian exchange oil,

AND IN THE MATTER OF The Petroleum Administration Act Section 12.

HEARD at Ottawa, Ontario on 7 March, 1980.

BEFORE:

| | | |
|---|---|---|
| R.F. Brooks | ) | Presiding Member |
| L.M. Thur | ) | Member |
| J.R. Hardie | ) | Member |

APPEARANCES:

| | | |
|---|---|---|
| J.H. Farrell | ) | |
| R.J. Carew | ) | Ultramar Canada Inc. |
| J. Gaulin | ) | |
| A. Dickinson | ) | |
| J. McL. Hendry | ) | National Energy Board |

## BACKGROUND

Pursant to the requirements of the Petroleum Administration Act, exports of crude oil from Canada are subject to an export charge which has been set at levels reflecting the difference between the Canadian price level and the estimated value in the export market. The charge, determined monthly by the Governor in Council, may be varied pursuant to Section 12 of the Act.

In 1975, the exchange of western Canadian crude oil for U.S. crude oil imported into Canada at Sarnia was implemented to assist U.S. mid-Continent refiners, which had been traditionally dependent on Canadian crude oil, and to achieve commercial benefits for Canadian companies. Since exchanges of this type do not involve incremental production of Canadian crude but rather are changes in routing of oil movements, the exports made under such exchanges (known as "mid-Continent" exchanges) were exempted from export charges.

Political events in Iran led to significant reductions in that country's oil exports late in 1978 and in 1979 and contributed to a swift escalation in world oil prices. Refiners in eastern Canada, including Ultramar Canada Inc., primarily dependent upon offshore sources of crude oil, felt the effect of supply disturbances and the associated rising prices.

Government action to forestall shortages was initiated during the first quarter of 1979 by increasing the production of Canadian crude oil to levels in excess of that necessary to meet demands traditionally supplied by domestic crude, i.e. areas west of the Ottawa Valley, plus 315 Mb/d to Montreal refineries. The additional crude oil could not be moved directly to the east by the Interprovincial pipeline system and the alternative of shipping by tanker from Vancouver through the Panama Canal was costly. Accordingly, a new type of exchange (known as "eastern Canadian" exchanges) was permitted involving export of Canadian crude from the west in exchange for delivery of tanker-borne foreign crude via the Portland-Montreal pipeline to Montreal or direct to a Canadian refiner. These exchanges had the desired effect of easing potential product shortages through increased use of scarce Canadian crude. However, they also made it possible for refiners to reduce imports of higher priced crude from offshore. Any reduction of imports would, of course, run counter to the objective of the exchanges which was to augment the supply of crude oil available to eastern Canadian refineries.

Accordingly, to offset the economic advantage of such exchanges, a net export charge of $.75 per barrel was levied on the fifteen eastern Canadian exchanges granted during the 2nd quarter of 1979. By the beginning of the 3rd quarter of 1979, Canadian crude oil was being produced at close to full capacity. With supply shortages still a concern, eastern Canadian exchanges were continued to the extent of available Canadian production. To further encourage refiners to seek crude oil supplies from offshore sources, the National Energy Board recommended, and the Governor in Council approved an increase in the net export charge to $3.00 per barrel.

On 7 March 1980, the Board heard Ultramar's oral submission on its request that the $3.00 per barrel charge be reduced retroactively to zero.

## THE SUBMISSION

Ultramar Canada Inc. owns and operates refineries for the manufacture of petroleum products in the Provinces of Quebec and Newfoundland for sale in Canada and elsewhere.

By a submission provided under cover of a letter dated January 21, 1980, Ultramar asked the National Energy Board ("the Board") to recommend to the Governor in Council a reduction in certain export charges, as provided for under Section 12 of the Petroleum Administration Act. The exports referred to in the submission include those which were approved by the Board under eastern Canadian exchange arrangements with U.S. refiners and for which licences numbered OLX-505-79, OLX-507-79, OLX-518-79, OLX-519-79, OLX-525-79 and OLX-526-79 were issued.

In its submission, Ultramar outlined its crude supply problems which were caused by the political events in Iran. Ultramar stated that at the beginning of 1979 it had virtually no supply contracts for crude oil, having chosen to depend on affiliates to provide its crude requirements. When Iran reduced exports of oil, companies like Ultramar Canada Inc., which were without secure long term contracts, had great difficulty securing crude oil in the world markets. Ultramar maintained that its persistent and diligent efforts to obtain offshore supplies to make up for the loss of crude supply were unsuccessful,

and efforts were intensified to obtain western Canadian crude oil. Although able to purchase Canadian crude oil throughout 1979, Ultramar was unable to secure sufficient allocation of capacity on the Interprovincial pipeline system to allow it to move all of its crude oil from western Canada to Montreal.

In February 1979, Ultramar was given approval to enter into its first exchange with a U.S. refiner whereby foreign oil was delivered to Ultramar Canada's refineries in exchange for exports of domestic light crude. This was followed by approvals for four additional exchanges, the last being granted in August, 1979.

Ultramar advanced the proposition that all light crude transported from western Canada to eastern Canada should be treated uniformly for charge purposes regardless of how such a delivery was accomplished, i.e. by pipeline, vessel or under an exchange agreement. Ultramar argued that there was no difference, in substance, between mid-Continent exchanges, on which no export charge is payable, and the eastern Canadian exchanges in which it was involved. Ultramar asserted that as a result of changes in the world oil marketplace, Canadian requirements for Canadian crude oil should be determined with reference to Canada as a whole rather than the area west of the Ottawa Valley plus a specified volume for Montreal. This would allow refineries east of Montreal to draw upon the available

supply of domestic light crude by means of exchanges; these should be free of any export charge.

Ultramar therefore requested that the Board recommend to the Governor in Council that it would be in the public interest of Canada to refund export charges amounting to about $7 million paid by Ultramar on its eastern Canadian exchanges entered into in 1979 involving domestic light crude. In addition, it requested the Board to make a recommendation that "in the future, all domestic light crude oil supplied under exchange agreements to eastern Canadian markets be treated as a non-taxable export."

## DISPOSITION

Having given careful consideration to the submission and supporting information together with the evidence provided at the hearing, and after taking into account all matters which appear to it to be relevant, the Board considers that the export charges on exchanges as prescribed by Orders in Council P.C. 1979-1117, P.C. 1979-1817 and P.C. 1979-3235 are in the Canadian public interest. Consequently, the request to recommend an exemption of the charges paid on exports under Licences OLX-505-79, OLX-507-79, OLX-518-79, OLX-519-79, OLX-525-79 and OLX-526-79 is denied.

The Board further considers that it would be inappropriate for it to decide at this time the level of export charges that should apply to future eastern Canadian exchanges if any should be authorized. This is a matter which would have to be decided when such exchanges were being considered, in the light of circumstances prevailing at that time. Consequently, Ultramar's request that the Board make a recommendation at this time on the level of export charges that would apply to future eastern Canadian exchanges is denied.

R.F. Brooks,
Presiding Member.

L.M. Thur,
Member.

J.R. Hardie,
Member.